

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

NANCY A. COLAGIOVANNI,

Plaintiff,

Civil No. 06-6108-AS

v.

ORDER

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

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HAGGERTY, Chief Judge:

Magistrate Judge Ashmanskas issued a Findings and Recommendation in this action [14], in which the Magistrate Judge recommended that the Commissioner's final decision should be affirmed. Plaintiff filed objections to the Findings and Recommendation, and the matter was then referred to this court.

When a party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate's report. 28 U.S.C. § 636(b)(1)(B); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The objections were filed in a timely manner. The court has given the file of this case a *de novo* review, and has also carefully evaluated the Magistrate's Findings and Recommendations, the objections, and the entire record. Magistrate Judge Ashmanskas provided a thorough analysis of the facts and circumstances regarding this litigation, and the analysis need not be repeated here. For the following reasons, the Findings and Recommendation is adopted.

#### **ANALYSIS**

Plaintiff offers two primary objections: (1) that the Administrative Law Judge (ALJ) did not give clear and convincing reasons for rejecting the opinions of plaintiff's treating physicians, and (2) that the ALJ failed to give clear and convincing reasons for rejecting plaintiff's testimony. The court will address each objection in turn.

Plaintiff asserts that the ALJ erred by providing legally insufficient reasons for rejecting the opinion of treating physicians, Joan Campagna, M.D., and Noel Goldthwaite, M.D. In rejecting the opinions of plaintiff's treating physicians, the Findings and Recommendation explained that "the court is satisfied that the ALJ properly set forth reasons for rejecting Drs. Goldthwaite's and Campagna's opinions." Findings and Recommendation (FR) 19. The Findings and Recommendation found that "[t]he ALJ properly discounted the treating physicians' opinions after considering the purposes for which their opinions were provided, the extent of their relationship with Colagiovanni, the contradictory evidence such as Colagiovanni's ability to travel,

the objective medical findings, and Dr. Kurt Brewster's, the non-treating physician, opinion that Colagiovanni 'may not satisfy diagnostic criteria for a specific disorder such as lupus.'" FR 19.

Plaintiff argues that the Findings and Recommendation failed to reconcile that both Drs. Campagna and Goldthwaite were treating physicians, but that the ALJ rejected Dr. Campagna's opinion, in part, because she did not have "a treating doctor-patient relationship" with Colagiovanni. The ALJ did not, however, solely rely on the finding that Dr. Campagna was not a treating physician in rejecting the doctor's opinion. Instead, the ALJ rejected Dr. Campagna's opinion, in part, because "the limitations imposed [by Dr. Campagna] are not supported by the record, and are inconsistent with the claimant's subsequent work activity." Tr. 23-24.

The court agrees with the reasoning of the Findings and Recommendation that the ALJ's rejection of the opinions of Drs. Campagna and Goldthwaite was legally sufficient.

As to plaintiff's second objection, the Findings and Recommendation concluded that the ALJ properly rejected plaintiff's testimony regarding her limitations. The ALJ provided a number of reasons to find plaintiff not entirely credible. The ALJ noted that Colagiovanni contradicted herself as to alleged limitations, that the objective medical evidence was inconsistent with Colagiovanni's own statements regarding her symptoms, and that there was evidence of exaggeration of symptoms for secondary gain.

Because the ALJ identified specific evidence in the record that was inconsistent with Colagiovanni's claim of disability, there is substantial evidence to support the ALJ's adverse credibility determination.

Accordingly, this court adopts the Findings and Recommendation as presented.

## CONCLUSION

Plaintiff's objections have been scrutinized, and this court has undertaken a *de novo* review of the Findings and Recommendation at issue. The Findings and Recommendation [14] is adopted in full. The Commissioner's final decision is AFFIRMED.

IT IS SO ORDERED.

Dated this 23 day of July, 2007.

/s/ Ancer L. Haggerty  
Ancer L. Haggerty  
United States District Judge